

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
QUEZON CITY

FIFTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **5356**



Introduced by the Honorable Representative Ronald M. Cosalan

EXPLANATORY NOTE

Republic Act No. 8558, which was approved and passed on 26 February 1998, amended Section 287 of Presidential Decree No. 442, otherwise known as The Labor Code of the Philippines, in order to reduce the retirement age of underground mine workers or employees from sixty (60) to fifty (50) years old. The rationale behind being the continuous exposure of the underground employees to hazardous elements and risks, which are inevitable when working in mines, make them susceptible and vulnerable to all types of health problems and danger. In addition, even mill plant workers and those who work as support services, such as mechanical, electrical, and tailings pond personnel are likewise susceptible and vulnerable to the same health hazards. Hence, the need to reduce the retirement age in order for the said group of workers.

Consequently, in the Rules Prescribing the Retirement Age of Underground Mine Employees as issued by the Department of Labor and Employment through Department Order No. 09 (series of 1998), the said Department reduced the retirement age of the underground mine workers to fifty (50) years old, in compliance with R.A. 8558. The House Bill to include mill plant workers and those who work as support services, such as mechanical, electrical, and tailings pond personnel is currently pending before the House of Representative's Committee on Labor.

The Social Security System (SSS), however, requested for time to fully implement the same, the rationale being that such an immediate reduction would be detrimental to the financial status of the SSS. As partial compliance, SSS revised its Implementing Rules and Regulations and reduced the retirement age of mining workers to fifty five (55) years old, with the agreement that it would reduce the same to fifty (50) years old to comply with the law. As a result, underground mine workers with the age of fifty (50) had to wait for five (5) more years before being able to avail of their well-deserved retirement benefits. This went on for more than a decade.

Upon the opening of the 15th Congress last year, the undersigned made a formal inquiry from SSS as regards its full compliance of the provisions of R.A. 8558, specifically the reduction of the underground mine workers' retirement age to fifty (50) years old. Unfortunately, the SSS, with the new officers at the helm, now refuse to comply with R.A. 8558 as they believe the said statute did not specifically amend the Social Security Law (Republic Act No. 1161) but merely that of the Department of Labor and Employment (DOLE), rationalizing with discussion about general laws and special laws.

Apparently, the reasoning of the SSS is without legal basis. It is axiomatic that as between two laws on the same subject matter and are irreconcilably inconsistent, that which is passed later prevails, since it is the latest expression of legislative will.¹ It is to be presumed that the lawmakers knew the older law and intended to change it.² Under the Civil Code,³ laws are repealed only by subsequent ones, and not *vice-versa*.

Furthermore, a general law on a subject does not operate to repeal a prior special law on the same subject, unless it clearly appears that the legislature has intended by the later general act to modify or repeal the earlier special law.⁴ The legislative intent to repeal may be shown in the act itself,⁵ the explanatory note to the bill before its passage into law,⁶ the discussions on the floor of the legislature,⁷ and the history of the two legislations.⁸ There is intent to repeal the earlier special law where the general law uses words and phrases, which would be rendered meaningless if the special law is not thereby repealed or modified.⁹

In the present case, there is an implied repeal of the amendatory provision of R.A. 8282 by sec. 1 of R.A. 8558 because of irreconcilable inconsistency. Implied repeal by irreconcilable inconsistency between two laws takes place when: (a) the two statutes cover the same subject-matter; (b) they are so clearly inconsistent and incompatible with each other that they cannot be reconciled or harmonized; and (c) both cannot be given effect such that one law cannot be enforced without nullifying the other.¹⁰

Regardless of the above discussion, however, the undersigned believes that a clarification of R.A. 8558 should be made at this point in order to prevent any future legal consequences which may be considered unfair and unnecessarily detrimental to our hardworking underground mine workers. It is for these reasons that support for, and prompt passage of this proposed Bill is earnestly sought.


RONALD M. COSALAN

¹ R.E. AGFALO, STATUTORY CONSTRUCTION 413 (5th ED., 2003) citing *Pacis v Averia*, G.R. No. 22526, 29 November, 1966; *Lopez v Commissioner of Customs*, G.R. No. 28235, 30 January 1971; *Libares v Executive Secretary*, G.R. 21505, 24 October 1963; *David v COMELEC*, 271 SCRA 90 (1997).

² *Ibid.* at 414.

³ Art. 7.

⁴ AGFALO, *supra* note 1 at 414 citing *Casascho v Court of Industrial Relations*, 80 Phil. 848 (1948); *Valera v Tauson*, 80 Phil. 823 (1948); *Lichauco & Co. v Apostol*, 44 Phil. 138 (1922); *Butuan Sewmill, Inc. v City of Butuan*, G.R. No. 21516, 29 April 1966.

⁵ *Ibid.* at 420.

⁶ *Ibid.*

⁷ *Ibid.*, citing *Libares v Executive Secretary*, G.R. No. 21505, 24 October 1963.

⁸ *Ibid.*, citing *Valera v Tauson*, 80 Phil. 823 (1948).

⁹ *Ibid.*, citing *Manuel v De la Fuente*, 92 Phil. 302 (1952).

¹⁰ *Ibid.* at 399, citing *Phil. American Management Co., Inc. v Phil. American Management Employees Assn.*, G.R. No. 35254, 29 January 1973; *Villegas v Subido*, G.R. No. 32711, 30 September 1971.

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
Second Regular Session,

House Bill No. **5356**

Introduced by the Honorable Representative Ronald M. Cosalan

AN ACT AMENDING REPUBLIC ACT NO. 8282 WHICH HAS AMENDED REPUBLIC ACT NO. 1161, OTHERWISE KNOWN AS THE SOCIAL SECURITY LAW, TO REDUCE THE RETIREMENT AGE OF UNDERGROUND MINE WORKERS, MILL PLANT WORKERS AND SUPPORT SERVICES, SUCH AS MECHANICAL, ELECTRICAL, AND TAILINGS POND PERSONNEL TO FIFTY (50) YEARS OLD.

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section 12-B of Republic Act No. 8282, amending Republic Act No. 1161, otherwise known as the Social Security Law of the Philippines, is hereby further amended to read as follows:

SEC. 12-B. Retirement Benefits. - (a) A member who has paid at least one hundred twenty (120) monthly contributions prior to the semester of retirement and who: (1) has reached the age of sixty (60) years and is already separated from employment or has ceased to be self-employed; (2) has reached the age of sixty-five (65) years; or (3) in case of an underground mine worker, mill plant worker and one who works as support services, such as mechanical, electrical, and tailings pond personnel, who reached the age of fifty (50) years and is already separated from employment or has ceased to be self-employed, shall be entitled for as long as he lives to the monthly pension: *Provided*, That he shall have the option to receive his first eighteen (18) monthly pensions in lump sum discounted at a preferential rate of interest to be determined by the SSS.

“(b) A covered member who is sixty (60) years old at retirement, or fifty (50) years old at retirement in case of an underground mine worker, mill plant worker and one who works as support services, such as mechanical, electrical, and tailings pond

personnel, and who does not qualify for pension benefits under paragraph (a) above, shall be entitled to a lump sum benefit equal to the total contributions paid by him and on his behalf: *Provided*, That he is separated from employment and is not continuing payment of contributions to the SSS on his own.

"(c) The monthly pension shall be suspended upon the reemployment or resumption of self-employment of a retired member who is less than sixty-five (65) years old. He shall again be subject to Section Eighteen and his employer to Section Nineteen of this Act.

"(d) Upon the death of the retired member, his primary beneficiaries as of the date of his retirement shall be entitled to receive the monthly pension: *Provided*, That if he has no primary beneficiaries and he dies within sixty (60) months from the start of his monthly pension, his secondary beneficiaries shall be entitled to a lump sum benefit equivalent to the total monthly pensions corresponding to the balance of the five-year guaranteed period, excluding the dependents' pension.

"(e) The monthly pension of a member who retires after reaching age sixty (60) or fifty (50) years, in case of underground mine workers, mill plant workers and support services, such as mechanical, electrical, and tailings pond personnel, shall be the higher of either: (1) the monthly pension computed at the earliest time he could have retired had he been separated from employment or ceased to be self-employed plus all adjustments thereto; or (2) the monthly pension computed at the time when he actually retires."

SECTION 2. All other laws which are inconsistent with the above-mentioned following provisions shall be deemed repealed or amended as appropriate.

SECTION 3. This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national papers of general circulation, whichever comes earlier.

Approved,